IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

WP(C).No. 226 of 2005(B)

OS.659/2001 of PRL.M.C., KOTTAYAM
.....

PETITIONER:

JAYANTHI SREEDHARAN, AGED 36 YEARS,
W/O. LATE SREEDHARAN, KUNNELPARAMBIL HOUSE,
MUTTAMBALAM KARA, MUTTAMBALAM VILLAGE.

BY ADV. SRI.M.NARENDRA KUMAR
SMT.LEENA KRISHNAN

RESPONDENTS:

PONAMMA, AGED 29, W/O. KANNAN,
KUNELPARAMBIL HOUSE, MUTTAMBALAM KARA,
MUTTAMBALAM VILLAGE.

BY ADV. SRI.RAJEEV V.KURUP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.226/2005

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE WRITTEN STATEMENT FILED BY THE PETITONER BEFORE THE MUNSIFF'S COURT, KOTTAYAM IN OS. NO.659/01 DT. 25.7.02.

EXT.P2:- COPY OF THE IMPLEADING PETITION IA. NO.743/04 FILED BY THE RESPONDENT BEFORE THE MUNSIFF'S COURT, KOTTAYAM IN OS. NO.659/01 DT. 19.2.04.

EXT.P3:- COPY OF THE OBJECTION FILED BY THE PETITIONER TO IA. 743/04 BEFORE THE MUNSIFF'S COURT, KOTTAYAM.

EXT.P4:- COPY OF THE ORDER DT. 15.6.04 PRONOUNCED BY THE PRINCIPAL MUNSIFF , KOTTAYAM IN IA. 743/04 IN OS. 659/01.

/TRUE COPY/

P.A. TO JUDGE

tss

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 226 of 2005

Dated this the 1st day of August , 2007

JUDGMENT

Heard both sides. It would appear as if Ext.P4 is an innocuous order allowing the application for impleadment filed by the legal heirs of the deceased plaintiff. But as rightly submitted by Sri. M.Narendrakumar, the learned counsel for the petitioner, the petitioner in the I.A (respondent herein) sought her impleadment not as legal heir/representative of the deceased plaintiff but on the basis of a gift deed which the deceased plaintiff had executed in her favour a few months prior to the institution of the suit. In other words, the learned counsel submitted that the very suit was not maintainable since the deceased plaintiff did not have title over the suit property.

2. I find that Ext.P3 objections have been filed by the petitioner before the court to the impleadment application filed by the petitioner. In the light of Ext.P3 which raised very serious

objections, the learned Munsiff was not justified in allowing the impleadment application in this casual manner as he has done under Ext.P4. Nevertheless I sustain Ext.P4 directing the learned Munsiff to enquire into all the objections raised by the petitioner through Ext.P3 including the objection that the very suit filed by the deceased plaintiff was not maintainable. In other words, the impleadment will be without prejudice to the contentions raised by the petitioner.

The writ petition is disposed of as above.

PIUS C. KURIAKOSE,
JUDGE.

Dpk